

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **EDCV 23-2070 JGB (SPx)**Date **May 23, 2024**Title ***Dr. Sharon Jamie, M.D. v. US Department of Veteran Affairs, et al.***Present: The Honorable **JESUS G. BERNAL, UNITED STATES DISTRICT JUDGE****MAYNOR GALVEZ**

Deputy Clerk

Not Reported

Court Reporter

Attorney(s) Present for Plaintiff(s):

None Present

Attorney(s) Present for Defendant(s):

None Present

**Proceedings: Order (1) DISMISSING Action for Lack of Prosecution; and (2)
DIRECTING the Clerk to Close the Case (IN CHAMBERS)**

On October 11, 2023, Plaintiff Sharon Jamie, M.D. (“Plaintiff”) filed a complaint against Defendants US Department of Veteran Affairs and Farrukh Merchant, M.D. (jointly, “Defendants”) and Does 1 through 50, inclusive. (“Complaint,” Dkt. No. 1.) On January 26, 2024, the Court ordered Plaintiff to show cause why the case should not be dismissed for failure to prosecute as Plaintiff had not yet filed a proof of service. (“OSC,” Dkt. No. 10.) On February 5, 2024, Plaintiff timely filed a response which stated that she had procured service on Defendant US Department of Veteran Affairs and that service on Defendant Farrukh Merchant, M.D. was expected by February 9, 2024. The Court discharged the OSC on February 7, 2024. (Dkt. No. 14.)

On May 9, 2024, the Court again ordered Plaintiff to show cause why the case should not be dismissed for failure to prosecute, as Plaintiff still had not filed a proof of service for either Defendant. (“Second OSC,” Dkt. No. 15.) On May 16, 2024, Plaintiff timely replied to the OSC by filing proofs of service as to both Defendants and by requesting the Court discharge the Second OSC. (“Veteran Affairs Proof of Service,” Dkt. No. 16; “Merchant Proof of Service,” Dkt. No. 17; “Second OSC Response,” Dkt. No. 18.)

Absent a showing of good cause, an action must be dismissed without prejudice if the summons and complaint are not served on a defendant within 90 days after the complaint is filed. Fed. R. Civ. Proc. 4(m) (“Rule 4(m)”). Here, however, the Veteran Affairs Proof of Service indicates that Defendant US Department of Veteran Affairs was served on January 31, 2024 (112

days after the Complaint was filed), and the Merchant Proof of Service indicates that Defendant Farrukh Merchant, M.D. was served on February 16, 2024 (128 days after the Complaint was filed). (See Veteran Affairs Proof of Service; Merchant Proof of Service.) Plaintiff has presented no good cause or explanation for the late service.

Accordingly, pursuant to Rule 4(m), the Court **DISMISSES** the action **WITHOUT PREJUDICE**. The Clerk is **DIRECTED** to close the case.

IT IS SO ORDERED.